The Hon'ble Sri Justice B. Sudershan Reddy
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The Hon'ble Sri Justice K.C. Bhanu

W.P. No. 15337 of 1994

O R D E R: (per Sri Justice K.C. Bhanu)

This writ petition is filed to issue a writ of Certiorari or any other appropriate writ or order or direction to call for the records in Case No.V1/431/93 dated 21.12.1993 and quash the same.

The brief facts that are necessary for the disposal of the case are as follows:

One Rajumanuri Venkatesham granted an Inam in 1186 Fasli to one Kolla Venkatesam for maintenance of Nagulapalem tank. Since the grant is to a person, namely, Kolla Venkatesham, it is a personal inam. The petitioners as well as respondent No.5 are admittedly the succesors in interest. The inam in favour of Kolla Venkatesham was confirmed on 23.6.1960. It is the further contention of the petitioners that they are the successors of Kolla Venkatesham and have been in possession uninterruptedly for hundreds of years and therefore they are entitled for ryotwari patta for the inam land. Out of the original 23 acres the petitioners are now left with Ac.12-52 cents in S.no.65/1 of Nagulapalem village. The remaining lands were acquired by the Government for house sites and burial ground. According to them, respondents 5 and 6 obtained patta on 13.12.1961 under Section 7 of the Inam Abolition Act and the petitioners were not aware of the same. When they came to know about the same, they filed an appeal on 18.8.1986 before the 3rd respondent and the 3rd respondent after considering the contentions cancelled the patta both of R-5 and R-6 and directed to conduct de novo enquiry. Against that order of the 3rd respondent, the

respondents 4 to 6 filed a revision before the 2nd respondent contending that the inam belongs to the Institution and therefore the land should be handed over to the Endowments Department. The 2nd respondent held that the land in question is an inam land and the patta should be granted in favour of the Endowments Department in respect of the lands in S.No.65/1. Insofar as S.Nos.65/2 and 74/1 the 4th respondent was directed to take up enquiry and pass appropriate orders. Now the challenge is only with regard to the land in S.No.65/1.

Learned counsel for the petitioners contended that the enquiry under Section 3 of the A.P. (Andhra Area) Inams Abolition and Conversion into Ryotwari Act, 1956 (for short, 'the Act') has become final and therefore the nature of the inam as decided by the Inam Dy. Tahsildar cannot be disturbed since no one has filed any appeal against the order passed by the Inam Dy. Tahsildar. He further contended that the 2nd respondent exceeded its jurisdiction and the decision under Section 3 by the Dy. Tahsildar cannot be disturbed in revision filed under Section 14. Hence he prays to quash the proceedings of the 2nd respondent insofar as declaring the land in S.No. 65/1 as belonging to the Institution.

On the other hand, learned counsel for the respondents contended that though the Inam is a personal inam, but the income derived from the inam was to be used as a maintenance of the tank and therefore the tank is an Institution in which the inam belongs and hence the patta has to be issued in the name of the tank and rightly the Commissioner of Survey, Settlement and Land Records ordered for issuance of patta in the name of the Endowments Department and therefore the order under challenge does not suffer from any legal infirmities so as to call for interference.

The scope of judicial review is limited. While exercising the power of Certiorari, this court can interfere with the order of the quasi-judicial authority when such authority without considering the

evidence available on record comes to an incorrect finding or when there is a wrong application of provision of law or when the relevant evidence has not been considered by the quasi-judicial authority. The power of judicial review can be exercised not against the decision but against the decision making process.

The writ petitioners after a lapse of 30 year challenged the order of the Inam Dy. Tahsildar, Bapatla in T.D. No. 264 dated 13.12.1961 under Section 7(2) of the Act before the R.D.O. on 18.8.1996 stating that they have been in continuous possession and enjoyment of the land in S.No.74/1 to an extent of Ac.6-28 cents, Ac.12-52 cents in S.No.65/1 and Ac.2.71 cents in S.No.65/2 of Nagulapalem village. After an enquiry the R.D.O. came to the conclusion that the Inam Record in T.D. No. 264 where in the Inam Dy. Tahsildar, Bapatla issued ryotwari pattas jointly to Kolla Venkaiah and Kolla Subba Rayudu for Ac.12/52 in S.No.65/1 is traced but the inam records for the other extent in S.Nos.74/1 and 65/2 are not available. The appellants did not produce any document or evidence to show that the ryotwari pattas were granted to anybody in S.Nos. 74/1 and 65/2. Therefore, the R.D.O. cancelled the joint pattas granted in favour of Kolla Subba Rayudu and Kolla Venkaiah and ordered a de novo enquiry by the M.R.O. Challenging the same, an appeal is preferred by Kolla Subba Rayudu and another before the Commissioner. Insofar as the order of the R.D.O. directing the M.R.O. Parchur to take up enquiry under Section 7 and 7 of the Act in respect of the lands in S.Nos.65/2 and 74/1 the same is confirmed but it is ordered that a patta should be issued in the name of the Endowments Department in respect of the lands in S.No.65/1.

As seen from the impugned order it is clear that Raja Manuru Venkatesam granted Dharmadaya Inam of Ac.23-53 cents in Fasli 1186 to Kolla Venkatesam to maintain the Nagulapalem tank. The said inam was confirmed by the Inam Commissioner on 23.6.1860 under T.D. No. 264. The inam is to continue so long as the tank is kept in an efficient condition. Basing on the Inam Fare Register, the Commissioner of Survey, Settlement and Land

Records, Hydrabad came to the conclusion that it was not a personal inam enjoyed by Kolla Venkatesham and his successors but it is an institutional inam, the institution being Nagulapalem tank, and therefore the decision of the Inam Dy. Tahsidlar is wrong.

There cannot be any dispute that when an inam is awarded by an Institution, then the ryotwari patta shall have to be granted in the name of the Institution but not in the name of the occupiers. According to the learned counsel for the petitioners, the Commissioner has no jurisdiction exercising the powers under Section 140A when the order of the Dy. Tahsildar has become final. Under Section 3, the Tahsildar has got power either on suo moto or on application to decide as to whether a particular land is an inam land or whether such inam land is a ryotwari, zamindar or inam lease or whether such inam land is held by an institution after following the procedure prescribed under Sub-Section (2) of Section 3. After giving reasonable opportunity to the persons, the Tahsildar shall give the decision. Anyperson aggrieved by the decision of the Tahsildar may appeal to the revenue court. If no appeal is filed, the decision of the Tahsildar shall become final. The decision of the revenue court if any appeal is filed shall become final under Sub-Section (5). But, for the first time the decision of the Inam Tahsildar was challenged before the R.D.O. after lapse of 25 years by the petitioners. If the contention of the petitioners is to be accepted that the decision of the Dy. Tahsildar has become final, then their appeal has to be dismissed since the writ petitioners. have taken it as one of the grounds that the enquiry under Section 3 has become final and the nature of the inam cannot be disturbed since no one has filed the appeal. But the petitioners themselves filed an appeal after lapse of 25 years under Section 7(2) of the Act. The scope of Section7 is to grant ryotwari patta by the Tahsildar by suo moto or on application by a person or an Institution. therefore, the scope of enquiry under Section 7 is confined to the determination as to who is entitled to the grant of ryotwari patta in accordance with the provisions of Section 4.

The contention of the petitioners is that the powers of the

revision under Section 14-A of the Act are very much circumscribed and therefore the issuance of patta in favour of the Endowments Department in respect of S.No.65/1 ought not to have been ordered. Under Section 14-A of the Act, the Board of Revenue may call for records and examine the records relating to any proceedings taken by the Tahsildar, the Revenue Court or the Collector under the Act for the purpose of satisfying itself as to the regularity of such proceeding or the correctness, legality or propriety or any decision made or order passed therein; and if, in any case, it appears to the Board of Revenue that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, it may pass orders accordingly.

A perusal of the above provision makes it clear that the revisional authority has got jurisdiction to see the correctness, legality and propriety of the decision of the Revenue Court including the Tahsildar or the Colector and if it appears to the revisional authority it may pass orders modifying, annulling or reversing or remitting reconsideration. The powers of the revisional authority are very wide but the only rider is that no prejudicial order should be passed unless the person has been given an opportunity of making his representation. The finding of the Commissioner of Survey, Settlement and Land Records is based upon proper appreciation of the evidence on record. Basing on the certified copy of the Inam Fair Register, the learned Commissioner came to the conclusion that it was not a personal inam to be enjoyed by Kolla Venkatesham and his successors but it is an institutional inam, the institution being Nagulapalem tank.

According to the decision of a Division Bench of this Court in ***Abdul Latif Sahib v. Shaik Dastagir Sahib***[1] that the entries in the Inam Fair Register are entitled to great weight. The learned counsel for the petitioners relied upon the above decision to show that when the inam was also dharmadayam, the grant is not a personal grant but a service grant made for the maintenance of the tank. He relied upon the following passage:

> "The Division Bench held that if the entry in the Inam Fair Register contains the words "to be confirmed to the party so long as he continues the performance of the services" it indicates that the grant was a personal one. But it would not be so if the words used are "to be confirmed so long as the service is performed". This distinction was approved by the Supreme Court in Lakshminarasimhachari v. Sri Agastheswaraswamivaru (AIR 1919 P.C. 62). Even in a case where Column No.13 of the Inam Fair Register was silent, but the other entreis indicated that the inam was for devadayam and for the celebration of the festival of peerlu and the recommendation of the Deputy Collector in Column No.21 was to the effect that the Inam "can be confirmed permanently so long a the festivals are celebrated", a Division Bench of this Court in Mannam Thirupathi Swamy v. A.P. Wakf Board (1985 (2) APLJ 250) has recorded a finding that the grant is not a personal grant but a service grant made for the purpose of celebration of Peerlu at Ongole. The inam in question before the Division Bench was a grant given by a Hindu Raja for performance of Mohurram festival".

In this case also the R.D.O., Ongole after verifying the Register of Inams in Upputur village that the lands in S.No.74 measuring Ac.8-10 cents and Ac.15-43 cents in S.No.65 stood classified as Dharmadayam and granted to Kolla Venkaiah and Gangulu for repairing the tank, namely, Nagulapalem cheruvu. In view of the above decision, when the inam was granted to Dharmadayam, it cannot be said to be a personal grant but a service grant for the purpose of repairs to the Nagulapalem tank. Therefore, the Commissioner rightly ordered for patta in respect of S.No.65/1 to be issued in the name of Endowments Department.

Hence, the order under challenge does not suffer from

any legal infirmities so as to call for interference by this court. The writ petition is devoid of merit and is dismissed accordingly. No order as to costs.

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B. Sudershan Reddy, J.

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K.C. Bhanu, J.

Date: --11—2004.

MVB.